

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

Civil Action No. 05-11608-GAO

DAVID COX,  
Plaintiff,

v.

RYAN MARINI, SEAN BORDWELL,  
and JOHN DOE,  
Defendants.

**PLAINTIFF DAVID COX'S  
MOTION TO EXTEND TRACKING  
ORDER DEADLINES**

The Plaintiff, David Cox ("Plaintiff") hereby moves to extend all deadlines in the current Tracking Order by eight (8) months. As grounds for this request, Plaintiff state as follows:

1. In this case, the Plaintiff has filed suit against Defendants, and an unidentified third-party, John Doe, claiming that the Defendants assaulted and battered him, causing emotional distress. Additionally, Plaintiff claims that Defendants falsely imprisoned him and conspired to deprive him of his Constitutional rights and privileges by restricting his liberty and right to move and travel freely.
2. Plaintiff has vigorously sought the identity of the third assailant, currently referred to as "John Doe." After extended briefing, the Court made several determinations that this information should be turned over. However, that was not made until August 18, 2007. Before this date, conducting meaningful discovery was impossible because the identity of the third assailant was crucial to the Plaintiff's claims and presumably the defendants' defenses.
3. John Doe's identity has recently been revealed. Plaintiff Cox has filed a Motion to Amend the Complaint to add the name of the assailant, who has been identified as Mr. Andrew Kiriakos ("Kiriakos").

4. The current Tracking Order was issued on October 18, 2006. It sets all discovery requests and depositions to be completed by April 30, 2007. All dispositive motions were to be served on opposing parties by May 31, 2007. A pre-trial conference and firm trial date was to be set by June 30, 2007.

5. Defendant Kiriakos has not yet been served with the Amended Complaint.

6. The parties have not exchanged written discovery with Defendant Kiriakos, have yet to take depositions, and have additional discovery to complete.

7. Extending the Tracking Order deadlines by eight (8) months will provide sufficient time within which to serve Defendant Kiriakos and complete all remaining discovery. The extension will not serve to prejudice any of the parties, unduly delay proceedings, or inconvenience the Court.

8. This request is made in good faith and not for purposes of delay.

WHEREFORE, the Plaintiff requests that the Court allow this motion and amend the Tracking Order as follows:

- A. All discovery requests and depositions completed by February 29, 2008;
- B. Dispositive motions served on opposing parties by March 31, 2008; and
- C. Final pre-trial conference and firm trial date set by April 30, 2008.

DAVID COX  
By his attorneys,  
HOLLAND & KNIGHT LLP

By: /s/ Geraldine Aine  
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**LOCAL RULE 7.1 CERTIFICATION**

I hereby certify that I have contacted Matthew P. Zayotti and Raymond Sayeg, counsel for the Defendant Ryan Marini and counsel for Defendant Sean Bordwell, respectively, by telephone, in a good faith attempt to resolve or narrow the issue raised in this motion. I sought Matthew Zayotti's assent on several occasions with no response. Raymond Sayeg does not oppose this motion.

/s/ Geraldine Aine

**CERTIFICATE OF SERVICE**

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on the 15<sup>th</sup> day of October, 2007.

/s/ Geraldine Aine  
Geraldine Aine